
(2011) 11 SHI CK 0103
In the High Court Of Himachal Pradesh
Case No : CWP (T) No. 9238 of 2008

Karzam Giachho Negi

APPELLANT

Vs

State of H.P. and others

RESPONDENT

Date of Decision : 01-11-2011

Acts Referred:

Citation : (2011) 11 SHI CK 0103

Hon'ble Judges : V.K. Sharma, J

Bench : Single Bench

Judgement

V.K. Sharma, J.—The petition has been filed on the following prayers vide para 7(a) to (g):

7(a) Quash Annexure A-1 being issued illegally and arbitrarily.

(b) Quash the condition contained in HP Civil Services (Revised Pay) Rules, 1998, which does not make the new pay scales applicable to the contract employees being arbitrary, illegal and unconstitutional inasmuch as it creates unreasonable classifications amongst the employees discharging similar nature of duties and has no nexus with the object sought to be achieved.

(c) Quash the impugned action of the respondents whereby they are not allowing the pay scale of Rs. 6400/-(Lecturers School Cadres) plus other allowances to the applicant, in the revised scales on the principle of equal pay for equal work, being arbitrary, mala fide and illegal.

(d) Direct the respondents to pay at least the minimum of the scales in the Revised Pay Scale with DA etc. and other allowances for the same post held by the regular counterparts, ie, TGTs and Lecturer, to the applicant w.e.f. date of his initial appointments along with arrears and interest @ 18% thereon and all other consequential benefits.

(e) Direct the respondents to pay the salary for the period of vacations/holidays to the applicant and also pay salary for six days casual leave.

(f) Direct the respondents to pay Medical Allowance to the applicant wef initial appointments alongwith interest @18% thereon till the payment of the same.

(g) Restrain the respondents permanently from effecting the recovery from the applicant of the amounts already paid to the applicant and repay the amounts if already recovered arbitrarily and illegally.

2. In reply, respondents No. 1 to 4 have taken the following stand vide para 3:

3. That the present original application filed by the applicant is not maintainable, because, the applicant was appointed as lecturer on contract basis in the pre-revised scale plus other allowances as admissible prior to 1.1.1996. So, in view of the fact, the respondent State has rightly issued order dated 7.8.2002 (Annexure A-1) as annexed by the applicant with the original application. It is further submitted that before appointing the applicant on contract basis he has executed an agreement with the respondent State and according to the contract agreement he was appointed on the minimum of the pre-revised scale of the post which was applicable to the relevant category prior to 1.1.1996. Therefore, the applicant is also entitled to the allowances including dearness allowance, HRA and CA at the minimum of scale admissible to the category of the post on which the applicant was appointed. So, in view of these facts the applicant, by his own act and conduct is estopped to prefer the present original application. It is further submitted that, if any overpayment has been made to the applicant, the same is to be recovered from him.

3. A separate reply has been filed on behalf of respondents No. 2 and 5, wherein it is averred as under vide para 6.6:

6.6. In reply of para No. 6.6 of the application, it is admitted. Directions to this effect have been issued by Director of Education, however, the formula as mentioned vide memo dated 7.8.2002 has not been implemented till date. In this connection after confirming the position from the Senior Secondary School Ribba it is made clear that this Sub-Treasury, Moorang has neither objected the payment of dearness allowances on the basis of Annexure A-1 being made to the petitioner by the Principal, Senior Secondary School, Ribba nor issued any order to effect the recovery of dearness allowances from the petitioner.

4. The learned vice counsel appearing on behalf of the petitioner submits at the very outset that the case of the petitioner is covered under two judgments of this Court dated 17.11.2009, in CWP (T) No. 14232 of 2008, *Nek Ram and others vs. State of Himachal Pradesh and others* and 01.09.2008, in CWP No. 415 of 2000, *Baldev Singh & others vs. State of H.P. and others* and the connected matters.

5. In view of the above, if on facts the case of the petitioner is covered under the judgments referred to hereinabove in CWP(T) No. 14232 of 2008 and CWP No. 415 of 2000 and the connected matters and the same have attained finality and have been implemented and the petitioner is similarly situated, he shall also be treated similarly without any discrimination and benefit of the said judgments

alongwith consequential benefits, if any, shall be extended to him within three months from the date of production of copies of this judgment and the judgments referred to hereinabove by the petitioner before the respondents/competent authority.

6. The petition is disposed of in the above terms, so also pending application(s), if any.